

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

THOMAS RICHARD STRONG, Petitioner, vs. UNITED STATES OF AMERICA, Respondent.	4:24-CV-04166-KES ORDER DENYING MOTION FOR CERTIFICATE OF APPEALABILITY
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Petitioner, Thomas Richard Strong, filed a motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255. Docket 1. The court referred the motion to Magistrate Judge Veronica Duffy, who issued a report recommending that the court grant the United States’s motion to dismiss Strong’s petition because the petition was filed after the statute of limitations expired and Strong made no arguments regarding statutory or equitable tolling. Docket 9 at 8-9. The court adopted the report and recommendation in full and dismissed Strong’s petition. *See* Docket 11. Strong now moves this court for a certificate of appealability. Docket 16.

To appeal the denial of a § 2255 motion, a petitioner must first seek a certificate of appealability from the district court. *See Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003). The certificate may be issued “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). To meet the substantial showing requirement, “[t]he petitioner must demonstrate that reasonable jurists would find the district

court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Said differently, "[a] substantial showing is a showing that issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings." *Cox v. Norris*, 133 F.3d 565, 569 (8th Cir. 1997). Strong has not made a substantial showing that his claims are debatable among reasonable jurists, that a court could resolve his claims differently, or that any of the issues raised in his claims deserve further proceedings. Thus, it is

ORDERED that Strong's motion for a certificate of appealability (Docket 16) is denied.

Dated August 7, 2025.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE